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FRANCHISE & DISTRIBUTION LAW (LAW499H1S)

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ADJUNCT PROFESSOR: ADAM SHIP

Winter 2017

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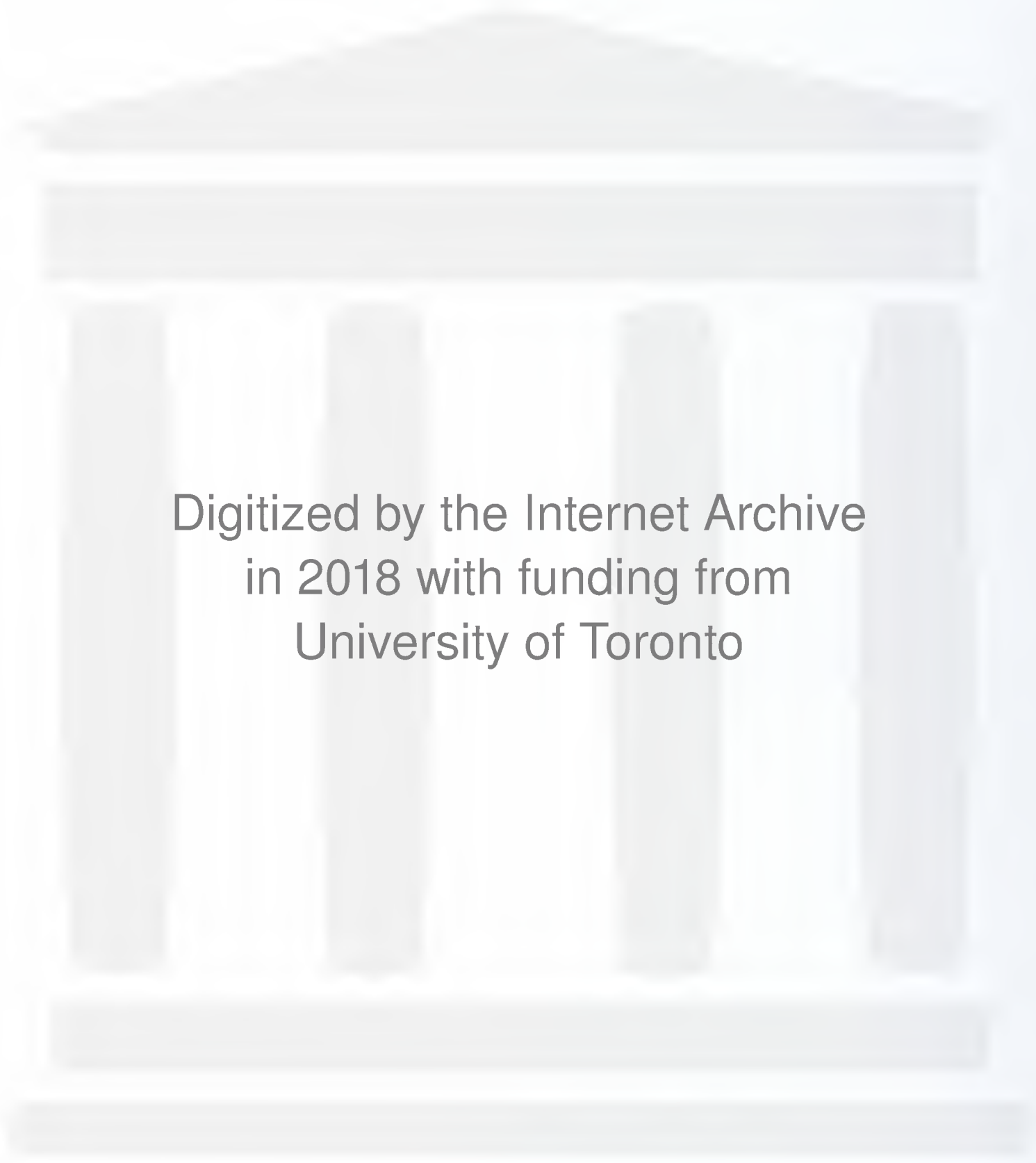
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A. INTRODUCTION TO FRANCHISE DISTRIBUTION LAW & FRANCHISING AS A BUSINESS MODEL – (1 CLASS)		
1.	J. Thomas McCarthy, “Franchising” in <i>McCarthy on Trademarks and Unfair Competition</i> (4 th ed.), Vol 3, (Toronto, Thomson Reuters, 2013), at 18(144-9)	2-7
2.	Frank Zaid, “Overview of Franchise Agreements” in <i>Franchise Law</i> (Toronto: Irwin Law, 2005), at 10-23	8-21
3.	James A. Brickley & Frederick H. Dark, “The Choice of Organizational Form: The Case of Franchising” (1987) 18 <i>Journal of Financial Economics</i> 401, 401-5	22-26
4.	Alanson P. Minkler, “Why Firms Franchise: A Search Cost Theory” (1992) 148 <i>Journal of Institutional and Theoretical Economics</i> 240, at 240-7	27-34
B. THE DUTY OF GOOD FAITH AND FAIR DEALING IN FRANCHISE-DISTRIBUTION LAW - (2 CLASSES)		
1.	A. Ship and D. McMullen, “ <i>The Legal Relevance of Bargaining Power in U.S. and Canadian Franchise Litigation: A Comparative Perspective North and South of the Border</i> ” (2015) 34 <i>Franchise Law Journal</i> 4, at 571-585	36-43
2.	<i>Shelanu Inc. v. Print Three Franchising Corp.</i> (2003), 64 O.R. (3d) 533; 226 D.L.R. (4th) 577 (C.A.)	44-56
3.	<i>Salah v. Timothy’s Coffees of the World Inc.</i> , 2010 ONCA 673; 268 O.A.C. 279 (C.A.)	57-63
4.	<i>Fairview Donut Inc. v. TDL Group Corp.</i> , 2012 ONSC 1252, aff’d 2012 ONCA 867	64-118
5.	<i>Bhasin v. Hrynew</i> , 2014 SCC 71	119-132
6.	<i>Trillium Motor World Ltd. v. General Motors of Canada Ltd.</i> 2015 ONSC 3824	133-150
C. PRE-CONTRACTUAL MISREPRESENTATION IN FRANCHISING AT COMMON LAW - (1 CLASS)		
1.	G. Hall <i>et al</i> , “Contractual exclusion clauses: have the reports of the death of the doctrine of fundamental breach been greatly exaggerated?” (July 15 2010), Online: http://news.mccarthy.ca/	152-153
2.	<i>J.R.K. Car Wash Ltd. v. Gulf Canada Ltd.</i> , 46 C.P.R. (3D) 525 (Ont. Gen. Div.)	154-170

3.	<i>Zippy Print Enterprises Ltd. v. Pawliuk</i> (1995), 20 B.L.R. (2d) 170 (B.C.C.A)	171-186
4.	<i>Shelanu Inc. v. Print Three Franchising Corp.</i> (2003), 226 D.L.R. (4th) 577 (C.A.)	187-196
5.	<i>Sultani v. Blenz the Canadian Coffee Company Ltd.</i> , 2005 BCCA 578	197-206
6.	<i>Healy v. Canadian Tire Corp.</i> [2012] O.J. No. 263; 2012 ONSC 77 (Ont. S.C.J.)	207-218
D. FRANCHISE LEGISLATION IN ONTARIO, ALBERTA, MANITOBA, NEW BRUNSWICK & P.E.I. - (2 CLASS)		
1.	A. Ship, "Strict Liability and Statutory Rescission of Franchise Agreements in the Ontario Court of Appeal," (2012) 52 <i>Canadian Business Law Journal</i> 288, at 288-92	220-224
2.	<i>Arthur Wishart Act (Franchise Disclosure)</i> , 2000, S.O. 2000, c. 3	225-234
3.	<i>1490664 Ontario Ltd. v. Dig This Garden Retailers Ltd.</i> (2005), 256 D.L.R. (4 th) 451 (Ont. C.A.)	235-244
4.	<i>Hi Hotel Limited Partnership v. Holiday Hospitality Franchising Inc.</i> (2009), 437 A.R. 225 (Alta. C.A.)	245-262
5.	<i>6792341 Canada Inc. v. Dollar It Ltd.</i> (2009), 310 D.L.R. (4 th) 683 (Ont. C.A.)	263-277
6.	<i>405341 Ontario Ltd. v. Midas Canada Inc.</i> , 2010 ONCA 478 (C.A.)	278-291
E. PROTECTION OF THE FRANCHISOR'S BRAND: TRADEMARKS, TRADE SECRETS, BREACH OF CONFIDENCE AND NON-COMPETITION COVENANTS - (1 CLASS)		
1.	J. Dolman <i>et al</i> , "Governing Principles and Recent Trends in the Enforcement of Restrictive Covenants in Franchise Agreements" 2015 43 <i>Advocates' Quarterly</i> 448, at 448-459.	293-303
2.	Gill, "Licencing under the New s. 50" in <i>Fox on Trade-marks</i> (Toronto, Carswell, 2009) at 15(21-9)	304-314
3.	<i>2 For 1 Subs Ltd. v. Ventresca</i> (2006), 17 B.L.R. (4 th) 179 (Ont. S.C.J.)	315-319
4.	<i>Cadbury Schweppes Inc. v. FBI Foods Ltd.</i> (1999), 167 D.L.R. (4 th) 577 (S.C.C.)	320-344

F. TERMINATION, RENEWAL AND TRANSFER OF FRANCHISE-DISTRIBUTION AGREEMENTS - (1 CLASS)

1.	A. Ship, "Common Law Treatment of Renewal Rights in Commercial Agreements: A Special Look at Franchises, Distributorships, and the Duty of Good Faith," (2013) 54 <i>Canadian Business Law Journal</i> 178, at 181-185, 197-202	346-356
2.	A. Ship <i>et al</i> , "Franchisee Renewals and Transfers in Canada's Common Law Provinces", (Fall 2015) 35 <i>Franchise Law Journal</i> 2, at 255-263	357-365
3.	J. Lisus & A. Ship, "Restrictions on Unilateral Termination of Franchise Agreements," (2010) 49 <i>Canadian Business Law Journal</i> 113, at 116-8, 121, 123-4	366-371
4.	<i>Shelanu Inc. v. Print Three Franchising Corp.</i> (2003), 226 D.L.R. (4th) 577 (Ont. C.A.)	372-375
5.	<i>1193430 Ontario Inc. v. Boa-Franc Inc.</i> , 78 O.R. (3d) 81; 260 D.L.R. (4th) 659 (C.A.)	376-388
6.	<i>Agribrands Purina Canada Inc. v. Kasamekas</i> , 2011 ONCA 460 (C.A.)	389-393
7.	A. Ship, "Specific Performance of Franchise and Distribution Agreements in Canada," (2012) 39(4) <i>Advocates' Quarterly</i> 407, at 417-21	394-398

G. FRANCHISE SYSTEM CHANGE – (1 CLASS)

1.	A. Ship <i>et al</i> , "Legal Risk Management in Franchise System Change", (January 14, 2014) Ontario Bar Association, Focus on Franchising.	400-409
2.	<i>Fairview Donut Inc. v. TDL Group Corp.</i> , 2012 ONSC 1252, aff'd 2012 ONCA 867	See B(4)
3.	<i>Landsbridge Auto Corp. v. Midas Canada Inc.</i> (2009), 73 C.P.C. (6th) 10 (Ont. S.C.)	411-429
4.	A. Ship <i>et al</i> , "Franchisors' Implied Duty After Dunkin' Brands Canada v. Bertico", (Summer 2015) <i>The Franchise Lawyer</i> , at 12-13	430-431
5.	<i>Dunkin' Brands Canada Ltd. v. Bertico Inc.</i> , 2015 QCCA 624,	432-448

H. VICARIOUS LIABILITY & COMPETITION POLICY IN FRANCHISE-DISTRIBUTION LAW

Vicarious Liability (1 CLASS)

1.	A. Ship <i>et al</i> , "Balancing The Risk of Vicarious Liability," (Fall 2014) <i>TheFranchiseVoice</i> , at 30-31	451-452
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2.	<i>Fraser v. U-Need-A-Cab Ltd.</i> [1985] O.J. No. 2482 (C.A.)	453-454
3.	<i>Beuker v. H & R Block Canada Inc.</i> , 2000 SKQB 584, [2011] 10 W.W.R. 274 (Q.B.)	455-459
4.	<i>Toshi Enterprises Ltd. v. Coffee Time Donuts Inc.</i> (2008), 246 O.A.C. 17 (Div. Ct.)	460-463
5.	J. Hoffman & G. Rebane, "Vicarious Liability of Franchisors", <i>Ontario Bar Association</i> (October 14, 2009, 9 th Annual Franchise Law Conference), at 14-7, 24-8	464-472
Competition Law (I CLASS)		
1.	<i>Fairview Donut Inc. v. TDL Group Corp.</i> 2012 ONSC 1252	474-490
2.	N. Campbell & S. O'Carroll, "The Americanization of Canada's Competition Act" (2010) 48 <i>Canadian Business Law Journal</i> 446, at 449-51	491-493
3.	A. Roman & J. Morelli, "Drafting Non-Competition Clauses Under the New Competition Act Section 45: Avoidance of a Criminal Offence (2011) 52 <i>Canadian Business Law Journal</i> 95, at 103-108	494-499
4.	Competition Bureau, <i>Enforcement Guidelines - Competitor Collaboration Guidelines</i> (December 23, 2009), at 9-10, 39-40	500-503
5.	<i>Competition Act</i> , RSC 1985, c C-34, s. 76	504-506
6.	F.P. Morrison <i>et al.</i> , "Reasons in <i>Commissioner of Competition v. Visa</i> " (September 17, 2013), <i>Lexology.com</i>	507-510

